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EXAMINER

TIMORY, KABIR A

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YANJUN SUN, MINGHUA FU, and XIAOLIN LU

Appeal 2016-005485
Application 13/677,418
Technology Center 2600

Before CAROLYN D. THOMAS, BRADLEY W. BAUMEISTER, and
JOSEPH P. LENTRIVECH, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL

SUMMARY

During prosecution, the Examiner rejected claims 1, 3–6, and 21–23 pursuant to the following grounds:

Claims 1 and 3–6 were rejected under 35 U.S.C. § 103(a) as obvious over Wedding (US 8,536,985 B1; issued Sept. 17, 2013) in view of Wetherell (US 4,066,912; issued Jan. 3, 1978). Non-Final Act. 6–10.¹

Claim 21 was rejected under 35 U.S.C. § 103(a) as obvious over Wedding in view of Wetherell and Ming Yan and Jian-hua Dai, *The Design and Implementation of 128-bit AES encryption in PRIME*, IEEE, Vol. 7, 345–48 (July 9–11, 2010) (hereafter “Yan”). Non-Final Act. 10–11.

Claims 22 and 23 were rejected under 35 U.S.C. § 103(a) as obvious over Wedding in view of Wetherell and Borisov (US 2013/0099938 A1; published Apr. 25, 2013). Non-Final Act. 11–12.

Appellants appeal under 35 U.S.C. § 134(a), alleging in the STATUS OF CLAIMS Section that claims 1 and 3–6 stand rejected and are appealed, claim 2 is canceled, claims 7–20 are withdrawn, and claims 21–23 are “added.” App. Br. 5. Appellants then list only claims 1 and 3–6 in the Claims Appendix Section (*id.* at 18–19), and they argue the patentability of only claims 1 and 3–6 (*id.* at 9–16). No reference is made to claims 21–23. *See generally id.*

¹ Rather than repeat the Examiner’s positions and Appellants’ arguments in their entirety, we refer to the following documents for their respective details: the Non-Final Action mailed April 23, 2015 (“Non-Final Act.”); the Appeal Brief filed October 21, 2015 (“App. Br.”); the Examiner’s Answer mailed March 17, 2016 (“Ans.”); and the Reply Brief filed April 26, 2016 (“Reply Br.”).

The Examiner does not address this discrepancy or clarify the record in the Examiner's Answer. The Examiner instead states

(1) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action (mailed on 04/23/2015) from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

Ans. 2.

A review of the prosecution record uncovers no advisory action responsive to the April 23, 2015 Non-Final Action. The Examiner's Answer contains no sections with the subheadings "WITHDRAWN REJECTIONS" or "NEW GROUNDS OF REJECTION." The Examiner's Answer only responds to Appellants' arguments regarding the one rejection of claims 1 and 3–6. Ans. 2–7. Appellants do not address claims 21–23 in their Reply Brief either. *See generally* Reply Br.

Based on the arguments Appellants raise in their Briefs, we understand Appellants to be appealing the rejections of all of claims 1, 3–6, and 21–23, but not including separate arguments for the rejections of claims 21–23. *See* 37 C.F.R. § 41.31(c) ("An appeal, when taken, is presumed to be taken from the rejection of all claims under rejection unless cancelled by an amendment filed by the applicant and entered by the Office").

We have jurisdiction under 35 U.S.C. § 6(b). We review the appealed rejections for error based upon the issues identified by Appellants, and in

light of the arguments and evidence produced thereon. *Ex parte Frye*,
94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

We affirm.

STATEMENT OF THE CASE

Appellants describe the present invention as follows:

A power line communication network includes a first power line communication sub-network, a second power line communication sub-network, and an isolation filter disposed between first and second power line communication sub-networks. The isolation filter is configured to pass electrical power signals between the first and second power line communication sub-networks, and to block passage of data communication signals from the first power line communication sub-network to the second power line communication sub-network.

Abstract.

Independent claim 1, reproduced below, is illustrative of the appealed claims:

1. A power line communication (PLC) network operating in accordance with a PLC standard, said network comprising:
 - a first power line communication PLC sub-network;
 - a second power line communication PLC sub-network;
 - and
 - an isolation filter disposed between first and second power line communication PLC sub-networks, wherein the isolation filter is configured to:
 - pass electrical power signals in a first frequency band between the first and second power line communication PLC sub-networks; and
 - block passage of packet communication signals in a second frequency band from the first power line

communication PLC sub-network to the second power line
communication PLC sub-network.

FINDINGS AND CONTENTIONS

The Examiner finds that Wedding discloses all of the limitations of independent claim 1 except for specifically teaching that the electrical power signal is transmitted in a first band and that the packet communication signals are carried in a separate, second frequency band. Non-Final Act. 7. The Examiner relies on Wetherell for teaching this feature and provides motivation for why it would have been obvious to incorporate this feature into Wedding. *Id.*

Appellants assert

The art cited by Examiner alone or in combination fails to teach a power line communication (PLC) network operating in accordance with a PLC standard with power line communication PLC standard sub-networks and an isolation filter disposed between the power line communication PLC standard sub-networks, wherein the isolation filter is configured to pass electrical power signals in a first frequency band between the power line communication PLC standard sub-networks and to block passage of packet communication signals in a second frequency band from the first power line communication PLC standard sub-network to the second power line communication PLC standard sub-network.

App. Br. 13.

This argument is unpersuasive because it merely constitutes a restatement of the claim language—not an argument on the merits. “A statement [that] merely points out what a claim recites will not be considered an argument for separate patentability of the claim.” 37 C.F.R.

§ 41.37(c)(1)(vii).

Appellants subsequently explain differences between their invention and that of Wedding. *Id.* at 13–16. Appellants then more specifically argue that “[t]he art cited by Examiner prevents data from being transmitted on the power line. Data in the prior art is transmitted via data buses and not through the power line.” *Id.* Appellants contrast their own invention by arguing, e.g., “Appellants’ embodiment[] transmits data via the power line both between devices in the same sub-network and also from one sub-network to another through the power line not on separate buses.” *Id.*

ANALYSIS

It is irrelevant that in Appellants’ invention, filters 502 can selectively transmit or block data signals on power line 104 between power line subnetworks. Such optional functionality relating to the data signals is not affirmatively recited in claim 1. Rather, claim 1 merely requires, in relevant part, that the isolation filter be configured to *pass electrical* power signals and *block passage of packet communication* signals. App. Br. 18, Claims App’x.

Appellants do not dispute that Wedding’s data filter 32 passes electrical power signals on power line 24, while blocking the packet communication signals. In fact, Appellants affirmatively acknowledge in relation to Figure 7 of Wedding that:

The power and data are transmitted to the [Power System Communication Devices] on one of the six power lines, such as **(24g)**. The data filter **(32)** on this line will allow the power to pass through it or block the power from passing through it depending on the state of the filter. The state of said filter is determined by a command that is sent to it by the bi-directional

data bus (36). ***Data is blocked from passing through the data filter at all times.***

See App. Br. 9.

See In re Van Geuns, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (explaining that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims); *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (explaining that “[m]any of appellant’s arguments fail from the outset because . . . they are not based on limitations appearing in the claims”); MPEP 2145(VI) ARGUING LIMITATIONS WHICH ARE NOT CLAIMED.

For the foregoing reasons, Appellants have not persuaded us of error in the Examiner’s obviousness rejection of independent claim 1. Accordingly, we will sustain the Examiner’s rejection of that claim, as well as dependent claims 3–6, which are not separately argued. *See* App. Br. 9–16; Reply Br. 1–2.

CONCLUSIONS

Appellants have not shown that the Examiner erred in rejecting claims 1 and 3–6 under 35 U.S.C. § 103.

We summarily affirm the rejections of claims 21–23 because Appellants have presented no arguments in relation to these claims.

DECISION

The Examiner’s decision rejecting claims 1, 3–6, and 21–23 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED